

FLYNN

Serial No. **09/555,917**

Amendment in RCE dated October 4, 2004

Response to Office Action dated July 7, 2004

REMARKS

Upon entry of this amendment, claims 1, 5-14 and 17 are pending. By the present amendment, claims 1, 11, 12, 14 and 17 have been amended and claims 2-4 have been canceled. Favorable reconsideration of the application is respectfully requested.

The rejection of claims 1, 7, 8, 11-14 and 17 under 35 U.S.C. §102(b) over Callon (U.S. Patent No. 5,583,862) is respectfully traversed. Without acquiescing in the rejection, claims 1, 11, 12, 14 and 17 have been amended. Accordingly, the rejection will be discussed with respect to the claims as amended.

At the outset, it is noted that the Office Action alleges that certain features argued as distinguishing Callon in response to the previous Office Action are not present in the claims. Applicants respectfully disagree with this characterization. However, in an effort to expedite prosecution, the claims have been amended to specifically state that the alternative destination may include a proxy node, and that messages or data stored in the proxy node are forwarded to the mobile node when the mobile node becomes available. It is respectfully submitted that none of these features are disclosed or suggested by Callon. Accordingly, Callon fails to anticipate the claimed invention.

As discussed in response to the previous Office Action, Callon is inapplicable to the pending claims. In particular, Callon is directed to a routing

FLYNN

Serial No. 09/555,917

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Response to Office Action dated July 7, 2004

protocol for identifying reachability of routers that are announcing reachability to a desired destination *network*. Callon deals with the specific situation where some of the available networks are real physical networks and some are virtual networks. In this regard, Callon appears to address the problem of inefficient data transmission, in which data is transmitted to both the physical network and the virtual network because both of them are reporting the same reachability information. However, there is an underlying assumption in Callon that at least one network is currently connected to the intended destination of the data packet. Therefore, it is clear that Callon is not concerned with the problems addressed in the instant application and does not solve the problems identified therein. The reference in the Office Action to "mobile nodes" in this regard is misplaced. The mobile end stations to which Callon refers in Column 2, are being described to provide a background for a virtual network. Specifically, Callon teaches that it is convenient for such mobile end stations to maintain a single virtual address which other end stations or node can use to reach it.

In contrast to the characterization in the Office Action, what Callon is actually directed to is set forth in Col. 2, line 34 - Col. 3, line 49, wherein Callon states that the problem is identifying which routers are in communication with all nodes of a *network*, and the inefficiencies attendant therewith. The solution provided by Callon is to establish a routing mechanism that supports an

FLYNN

Serial No. **09/555,917**

Amendment in RCE dated October 4, 2004

Response to Office Action dated July 7, 2004

interconnected series of networks wherein some networks comprise subnetworks that are distributed over a virtual network, thus providing efficient routing in an internetwork environment including virtual networks. It is respectfully submitted that Callon is entirely inapposite the pending claims and therefore inapplicable.

In particular, the disclosure of the instant application is directed to the situation where the destination *terminal* in a mobile communications network is currently not connected to any data network at all. Thus, far from the data being delivered by two or more different routes to the same destination, there is a danger that the data will fail to be delivered at all. The disclosure of the instant application addresses this situation by setting up a "proxy" address to which data is sent when the intended destination cannot be located. Such a situation may arise with a mobile communications *terminal* (e.g., a mobile phone, wireless mobile device such as a Blackberry ®, mobile peer-to-peer device, etc.) is switched off or not in communications range of any suitable base station.

According to the claimed invention, data is stored in an alternative location, e.g., a proxy node, until the mobile terminal is available to receive data messages, at which point any message intended for the terminal and currently held at the alternative location or proxy terminal is forwarded to the main terminal.

There is no teaching or suggestion of the specifically recited features of the claimed invention in Callon. At the outset, it is noted that the reachability

FLYNN

Serial No. **09/555,917**

Amendment in RCE dated October 4, 2004

Response to Office Action dated July 7, 2004

information referred to in Callon is for an entire *network*, not an individual node or terminal of the network. Additionally, the manner in which the Office Action applying what is being taught at Columns 3 and 4 of the Callon reference is not correct. Callon, at Columns 3 and 4 refers to whether a network is directly reachable or whether it is a virtual network only partially connected to the router. It should be understood that in both cases the network is reachable – albeit indirectly in one case. Moreover, Callon fails to discuss the possibility that a mobile node to which the data is directed is not reachable. There is no mention in Callon as to how data is to be handled in the situation where a mobile node is not reachable. The disclosure at Columns 6 and 7 and Figures 4 and 5 only cover the possibilities of directly reachable destinations and “addresses served” destinations. There is not teaching or suggestion of setting an alternative destination when there is an indication that the mobile node to which the data is directed is not reachable, as specifically set forth in exemplary claims.

In complete contrast and distinction, the claimed method and apparatus provide an alternative destination or proxy in which the message is stored temporarily, and this proxy is only provided when required (e.g., when the target user is unreachable). This arrangement is much more appropriate in systems, for example, the Internet, which use peer-to-peer arrangements. Accordingly, in such an exemplary system, the user's home agent sets the destination to which the

FLYNN

Serial No. **09/555,917**

Amendment in RCE dated October 4, 2004

Response to Office Action dated July 7, 2004

received data is to be sent only when reachability information indicates that the mobile node is unreachable. If the mobile node is reachable, the data is not sent to that intermediate destination, but is sent directly to the target mobile node, and not through a central service center.

It is axiomatic that in order for a reference to anticipate a claim, the reference must disclose each and every feature of the claim. As set forth above, Callon fails to disclose each and every feature of the claimed invention. For example, there is no disclosure in Callon of the feature of providing an alternative (e.g., proxy) destination for data only when the target mobile user is unreachable and sending the data to the mobile node or user when the mobile node or user becomes reachable or available. Therefore, Callon fails to anticipate the claimed invention. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

The rejection of claims 2-4 under 35 U.S.C. §103(a) over Callon in view of Kulkarin (U.S. Patent No. 5,862,481) is respectfully traversed. Without acquiescing in the rejection, claims 2-4 have been canceled without prejudice. Accordingly, the rejection is moot. Reconsideration and withdrawal of the rejection are respectfully requested.

The rejection of claims 5, 6, 9 and 10 under 35 U.S.C. §103(a) over Callon in view of Malkin (U.S. Patent No. 6,061,650) is respectfully traversed.

FLYNN

Serial No. **09/555,917**

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It is respectfully submitted that Malkin fails to overcome the fundamental deficiencies noted above with respect to Callon. Therefore, even if, *arguendo*, the combination of Callon and Malkin were proper, the combination nevertheless fails to render the claimed invention obvious. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

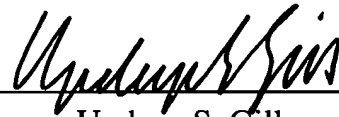
In view of the foregoing, it is respectfully submitted that the entire application is in condition for allowance. Favorable reconsideration of the application and prompt allowance of the claims are earnestly solicited.

Should the Examiner deem that further issues require resolution prior to allowance, the Examiner is invited to contact the undersigned attorney of record at the telephone number set forth below.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



Updeep S. Gill

Reg. No. 37,334

USG:dbp
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100